HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Appeal No.1367 of 2006

Between:

The State Election Commission,
Rep., by its Joint Secretary,
G.M. Ramesh Kumar, S/o Late M.B. Naidu,
Aged 58 years, III Floor, Buddha Bhavan,
Ranigunj, Secunderabad

... Appellant

And

Smt. Itham Aruna Kumari and four others

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri V.V. Prabhakar Rao

Counsel for respondent No.1 : Shri D. Srinivas

Counsel for respondent Nos.2 to 5 : Advocate General

December 26, 2006

Per G.S. Singhvi, CJ

This appeal is directed against order dated 20-06-2006 passed by the learned Single Judge, whereby he allowed the writ petition filed by

respondent No. 1 along with a batch of other petitions with the title case **N.Sekhar v. Government of Andhra Pradesh and others** – Writ Petition No. 10965 of 2006.

In the writ petition filed by her, which was registered as Writ Petition No. 10711 of 2006, respondent No.1 prayed for issue of a declaration that the action of the official respondents in not taking steps to include genuine voters even though applications in Form VI were submitted in the month of November, 2005 by the individual claimants and not deleting the names of bogus voters though applications in Form – VII were submitted to the respondents in the month of November, 2005 and also not taking steps to delete the double entries in the revised voters list being brought to their notice is arbitrary and illegal.

The learned Single Judge briefly referred to the factual matrix of the writ petitions, but did not deal with the individual grievance and disposed of the entire batch of writ petitions by a common order dated 20-6-2006, the operative part of which reads as under:

> "150. In view of the fact that by virtue of supersession made in G.O.Ms.No.254 constitutional, legislative and subordinate legislation vacuum had been created the validity or otherwise of the said Rules need not be gone into and hence the said question is left open. However, a Writ of Mandamus as prayed for is issued quashing the consequential notification issued on 10-6-2006 which is long subsequent to filing of the Writ Petitions and just one day after the passing of the order by the Division Bench, as
> illegal, arbitrary, discriminatory and being violative of
> Article 14 of the Constitution of India and also violative of Article 243-K of the Constitution of India and Sections 11,
> 12, 201 of the A.P. Panchayat Raj Act 1994 and consequently this Court also declares that all the electoral lists drawn in this regard are not in accordance with the provisions of the Constitution, the statutory provisions, or the subordinate Legislations inasmuch as they suffer from the Constitutional bankruptcy, Legislative bankruptcy and subordinate legislative

bankruptcy as well and further direct the respondents to prepare fresh electoral lists in accordance with the provisions of the Constitution and also the provisions of the A.P. Panchayat Raj Act, 1994, if need be, by filling the requisite subordinate legislation as well."

Learned counsel for the appellant invited our attention to the judgment dated 18-12-2006 rendered by the Division Bench in Writ Appeal No. 709 of 2006 – **Government of Andhra Pradesh v. N.Sekhar and others** and batch, whereby order dated 20-6-2006 passed by the learned Single Judge in Writ Petition No. 10965 of 2006 and batch was reversed, and submitted that this appeal may be allowed in similar terms.

The aforementioned statement of the learned counsel for the appellant has not been contested by the learned counsel for the respondents.

Hence, the appeal is allowed. The order of the learned Single Judge is set aside. The detailed reasons recorded in judgment dated 18-12-2006 rendered by the Division Bench in Writ Appeal No. 709 of 2006 shall be read as part of this order. However, liberty is given to respondent No. 1 to file election petition to question the elections held on the basis of electoral rolls notified on 08-05-2006. It shall also be open to respondent No. 1 to apply for condonation of delay in filing election petition. If she files such application, then the same shall be decided by the Election Tribunal in accordance with law keeping in view the litigation instituted in this Court.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

December 26, 2006

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